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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/559,741	12/06/2005	Nathan Intrator	BRUN-001XX 3855	
<sup>207</sup> WEINGARTEI	7590 06/28/2007 N, SCHURGIN, GAGN	EXAMINER		
TEN POST OFFICE SQUARE BOSTON, MA 02109			LOBO, IAN J	
			ART UNIT	PAPER NUMBER
			3662	
			MAIL DATE	DELIVERY MODE
			06/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1) Responsive to communication(s) filed on		Application No.	Applicant(s)				
Ian J. Lobo   3652		10/559,741	INTRATOR ET AL.				
- The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Examinos of time may be a availate under the provisions of 37 CR1.138(i). In no event, however, may a reply be timely liked.  If NO period for right is pecified above, the mointimum stabulary period will apply and will excise SK (8) MONTHS from the railing date of this communication.  Failur to reply which the sci or candidap deried for reply is pecified above, the mointimum stabulary period will apply and will excise SK (8) MONTHS from the railing date of this communication.  Failur to reply which the sci or candidap deried for reply in pecified above, the mointimum stabulary period will apply and will excise SK (8) MONTHS from the railing date of this communication.  Failur to reply which the sci or candidap deried for reply in the application is the application of the communication, even if threely filled, may reduce any certain period to the communication, even if threely filled, may reduce any certain period from the mailing date of this communication.  Failur to reply which the sci or candidap deried for reply in period period from the mailing date of this communication.  Failur to reply which the sci or candidation and the period of the communication.  Failur to reply which the sci or candidation is communication.  Failur to reply which the sci or communication.  Failur to reply which the sci or candidation is communication.  Failur to reply which the sci or candidation is communication.  Failur to reply which the sci or candidation is communication.  Failur to reply which the sci or candidation is communication.  Failur to reply which the sci or candidation is communication.  Failur to reply which the sci or candidation is communication.  Failur to reply which the sci or candidation.  Failur to reply which the sci or candidation.  Fa	Office Action Summary	Examiner	Art Unit				
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1)  Responsive to communication(s) filed on	<ul> <li>WHICHEVER IS LONGER, FROM THE MAILING DA</li> <li>Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period w</li> <li>Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing</li> </ul>	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
2a)  This action is FINAL. 2b)  This action is non-final.  3   Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4   Claim(s) 1-33 is/are pending in the application. 4a) Of the above claim(s)  is/are withdrawn from consideration.  5   Claim(s)  is/are allowed. 6   Claim(s) 1-33 is/are rejected. 7   Claim(s)  is/are objected to. 8   Claim(s)  is/are objected to. 9   The specification is objected to by the Examiner. 10   The drawing(s) filed on  is/are: a) accepted or b) objected to by the Examiner. Application Papers  9   The specification is objected to by the Examiner. Application Papers of the review of the Examiner. Application Papers of the category objected to by the Examiner. Application Papers of the category objected to by the Examiner. Application Papers of the category objected to be dealing of the drawing(s) is objected to. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11   The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12   Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some of the priority documents have been received. 2   Certified copies of the priority documents have been received in Application No	Status						
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12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b)  Some * c)  None of:  1.	11) The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.				
a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)  2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) ☑ Information Disclosure Statement(s) (PTO/SB/08)  1 ☐ Notice of Informal Patent Application	Priority under 35 U.S.C. § 119		·				
2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)  2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) ☑ Information Disclosure Statement(s) (PTO/SB/08)  1 ☐ Notice of Informal Patent Application							
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## **DETAILED ACTION**

## **Double Patenting**

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of copending Application No. 10/559,623. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of the instant claims (estimating the instantaneous signal-to-noise ratio) are provided by and fully encompassed by the subject matter of the '623 application (estimating the range). Specifically, the left column contains claims of the instant application and the right column are claims from the '623 application and not patentably distinct from those in the left column.

Instant application	'623 application	
1	1 & 2	
2	3	
3	4	
4	. 5	
5	6	
6	7	
7	8	
8	9	

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9	10
10	13
11	11
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14	15 & 16
15	17
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22	24
23	.27
24	25
25	26
26	28
27	1 & 2
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29	8
30	. 9

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This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

## Specification

3. The abstract of the disclosure is objected to because it is not directed to that which applicants regard is new in the art to which the invention, <u>as claimed</u>, pertains. Correction is required. See MPEP § 608.01(b).

## Allowable Subject Matter

4. The following is a statement of reasons for the indication of allowable subject matter:

The instant claims are allowable over the prior art of record because the prior art does not teach or fairly suggest a data analyzer that receives cross-correlation output data and analyzes the output data for determining variability of cross correlation peaks within each frequency sub-band, for identifying the lowest frequency sub-band having a corresponding low peak ambiguity and estimating the signal-to-noise ratio based upon the peak variability and center frequency of an identified frequency sub-band and a predetermined frequency range.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (571) 272-6974. The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lan J. Lobo

Primary Examiner

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